

The Peace Treaty Provisions  
on the River Rhine

*versus*

The Interests of American  
Industry and Commerce

# Extract From the Official Summary of the Treaty of Peace Presented to the Germans at Versailles

## SECTION X.

Belgium is to be permitted to build a deep draft Rhine-Meuse Canal if she so desires within twenty-five years, in which case Germany must construct the part within her territory on plans drawn by Belgium, similarly the interested allied governments may construct a Rhine-Meuse Canal, both, if constructed, to come under the competent International Commission, Germany may not object if the Central Rhine Commission desires to extend its jurisdiction over the lower Moselle, the upper Rhine, or lateral canals.

Germany must cede to the allied and associated governments certain tugs, vessels, and facilities for navigation on all these rivers, the specific details to be established by an arbiter named by the United States. Decision will be based on the legitimate needs of the parties concerned and on the shipping traffic during the five years before the war. The value will be included in the regular reparation account. In the case of the Rhine shares in the German navigation companies and property such as wharves and warehouses held by Germany in Rotterdam at the outbreak of the war must be handed over.

## SECTION XII.

### The Rhine and the Moselle

The Rhine is placed under the Central Commission to meet at Strassburg within six months after the peace, and to be composed of four representatives of France, which shall in addition select the president, four of Germany, and two each of Great Britain, Italy, Belgium, Switzerland and The Netherlands. Germany must give France, on the course of the Rhine included between the two extreme points of her frontiers, all rights to take water to feed canals, while herself agreeing not to make canals on the right bank opposite France. She must also hand over to France all her drafts and designs for this part of the river.

The Paris Peace Treaty, in its provisions respecting the river Rhine, seems to clash not only with the ideas of its own League of Nations covenant, but also with two principles regarding international waterways, advocated by the United States from the very beginning of her diplomatic history.

### **The American Principles**

These two main principles are: The throwing open of international waterways to the commerce and navigation of the whole world and the improving and linking together of natural waterways for the benefit of the whole world. The policy of the United States against Spain's monopolizing the Mississippi; her treaties on the freedom of the St. Lawrence River and its tributaries; her successful endeavors to open the rivers Amazon, La Plata, Paraguay, Paraná; her opposition against the Danish Sound toll and her consistent struggle for the freedom of the seas—all point in this direction. The same principles were adopted by the Congress of Vienna in 1815. Moreover the provisions of the revised League of Nations covenant on "freedom of communication and of transit" (article 23, paragraph e) adhere to them in a positive manner. No nation that comprehends the needs of the present world and of present Europe will think of opposing them.

And yet the Paris Peace Treaty, in its proposal to modify the regime of the river Rhine, seems to have been inspired by a tendency, widely different from these sound principles.

### **The Rhine Regime a Model**

As to the application of these American principles to special cases, the regime for the river Rhine was deemed to be a model, especially since the "Revised Rhine Navigation Treaty" of 1868, effective July 1, 1869. On the one hand, this treaty gave, in Sections 1, 3 and 7, a most liberal guarantee of the free use of the Rhine for commercial purposes by all nations, free of toll. On the other hand the treaty, in Sections 28 to 31, 41 and 42, secured that everything should be done in order to improve the Rhine and to take away impediments. Fifty years of experience have shown that the treaty was carried out in the spirit of its authors. It provides a free access to the heart of Central Europe for all industrial and commercial nations, and a free exit for the products of Central Europe to all nations that require them. Many tributaries of the Rhine and many Rhine Canals have extended the area of this easy access much farther West and East than the river domain of the Rhine itself.

### **Means by Which This Result Was Achieved**

1. The Rhine Navigation Treaty took care to bring about an effective co-operation of those nations which felt it their vital interest to render the Rhine as useful as possible. These nations were the riparian states: From 1868 to 1871 France (for Alsace-

Lorraine), four German States and The Netherlands; from 1871 to 1918 four German States, German Alsace-Lorraine and The Netherlands. After the regularization of the Rhine upstream from Basle and even before that time (the Swiss city of Basle being situated on the part of the Rhine affected by the treaty) Switzerland could become a riparian state—in 1868 she did not yet wish to be considered as such—and her adherence (already heartily applauded and cordially supported in The Netherlands) was expected to follow in this year, 1919, on the heels of the restoration of peace in Europe. On the same occasion France would get back automatically the place she had to abandon when, in 1871, she was robbed of Alsace-Lorraine.

2. The treaty and its application were such as to suppress all germs of political strife and envy. In the executive committee of six members for Rhine affairs, composed of one member for each riparian state, meeting twice a year and named: "The Central Rhine Navigation Commission," each state has one equal vote; unanimity is required for its decisions and its president is appointed by lot. In this manner no opportunity has been given for any majority to oppress a minority, nor even for majorities to be formed; international politics have been alien to the discussions of the commission; in her decisions the interest of the Rhine itself has been paramount.

3. The application of the treaty by this board of six members has rendered the hydrotechnical conditions of the Rhine excellent, at least between Strassburg and the sea, and has allowed many useful canals to be dug both to the West and to the East (Rhine-Rhône Canal, Rhine-Marne Canal, Rhine-Main-Danube or Ludwigs Canal, Rhine-Herne Canal) without disadvantage to the water quantity of the Rhine itself. The tributaries of the Rhine have also been improved by canalization, the Maine, for instance, already more than 30 years ago.

### **Proof of the Impartial Operation of the Treaty**

If the operation of the treaty had been ruled by political motives of national greed, The Netherlands would have been in a very delicate position with her single vote as against the five votes of German representatives. Practically, however, the requirement of unanimity saved her influence, without laming in any way the commission's work; and reason was nearly always victorious over numerical strength. For instance: when the German Empire (in contradistinction to the states composing the Empire) enacted a law in December, 1911, imposing tolls on all German waterways, in order to obtain the votes of land-owners east of the Elbe for the appropriations for new canals, the opposition of The Netherlands prevented this act from being applied to the Rhine: a result profitable not to Holland commerce only and not only to the nations whose flags were flying

on the river (Belgium, France, Germany, Great Britain, Luxemburg, Sweden and The Netherlands) but to all nations exporting to, or importing from Central Europe. When the German Empire dug an expensive and artificial waterway from Dortmund to Ems, in order to get a "Pan-German" outlet to the sea, the Central Commission watched over the Rhine interests and kept them unhampered. The commission also allowed The Netherlands to completely publish all Rhine documents from 1815 to 1915 throwing the fullest light on the practical application of the treaty (two volumes, 1918) and it was not a German proposal, but the example of The Netherlands (1850), which led to the final abolition of all duties levied on the Rhine. The management of Rhine affairs was a non-political and an impartial one, looking after the Rhine interests with an international mind. Such was the practice during fifty years.

### Post-War Conditions

Nobody will expect the victorious nations to be in favor of a regime which puts decisions in Rhine affairs into the hands of an unanimous six-member board in which Germany has five votes. The Netherlands herself, though having no reason at all to complain of the pre-war Central Commission, will heartily welcome the admission of Switzerland and the return of France to that board. In order to take the majority of votes from Germany (4 German votes against 3 non-German votes, those of The Netherlands, France and Switzerland) it would be sufficient to provide that the German riparian states should not have separate vote; and the profound modification of Germany's domestic constitution probably will not render it difficult to bring about this modification.

Are more changes desirable?

If the members of the board truly co-operate (as they always have done) the requirement of unanimity will be as prudent for the future as it was in the past. Equality of votes too has proved to be a happy solution; if modified, it would in any case be reasonable to take into account the greater or lesser interests of the contracting parties. The total extent of the Rhine in the four countries is about 550 miles, counting from Lake Constance to the North Sea, of which in— (See the annexed map.)

Switzerland, 39 miles, one bank only.

Germany, 451 miles, of which 149 one bank only.

France, 110 miles, one bank only.

Netherlands, 100 miles.

The miles in Switzerland and those between Basle and Strassburg have, of course, much less importance than the miles between Strassburg and the sea; and as the Rhine has at least three outlets through Netherlands territory—the Meuse (Rotter-

dam), the North Sea Canal (Amsterdam) and the Isola (Zwolle)—the Netherlands interests in a free and navigable Rhine are much greater than the number of her 100 miles of Rhine border would indicate.

### The Provisions of the Paris Peace Treaty

Judging from the published text of the abridged contents of the Peace Treaty, the Paris Conference, however, seeks the solution of post-war Rhine problems in an entirely different direction.

(a) Thus far, the powers involved in the treaty have been those powers whose vital interests dictated them to render the Rhine as useful as possible. The Paris Treaty replaces the present six-member board by a board of eighteen members, composed in this way:

France,	4 members.
Germany,	4 members.
Netherlands,	2 members.
Switzerland,	2 members.
Great Britain,	2 members.
Belgium,	2 members.
Italy,	2 members.

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Total, 18 members.

Thus, not only the principle of equality has been abandoned—and therewith the principle of unanimity, because inequality of votes would be without purpose if at the same time unanimity was required—but a glance at the annexed map will show that the inequal proportion of votes does not coincide at all with the interests of the respective nations concerned. France, besides, obtains the right to appoint the president, a serious infringement on the present rule, only to be explained if the new board purports to be a body with political aims, and the new arrangement gives an important and therefore dangerous influence to nations whose interests apparently do not lie in the improvement of the Rhine, but in a competition with the Rhine.

(b) Thus far, the tendency of all decisions of the Central Rhine Navigation Commission has been to act in co-operation for the efficiency of the river itself. The new treaty provisions, allowing French and Belgian canals without any restriction, and forbidding German canals without any reservation, make it certain that in future the board will know a struggle of two clashing tendencies: a pro-Rhine and an anti-Rhine tendency. The International Commission for the inferior Danube has amply shown the danger of political boards for hydrotechnical and commercial matters, and while this Danube commission may have been unavoidable because of the disorder reigning in the Danube delta, all comparison with the Rhine, whose delta is ruled in perfect order, is inappropriate.



(c) Thus far, canalization of tributaries of the Rhine—which does not diminish, but on the contrary increases its quantity of water—has been promoted, and canalizations which might diminish its water-quantity could be disallowed. The Peace Treaty renders such disallowance often impossible in the case of France and Belgium and the inequality of votes in this political board will do the rest. The Rhine, which often suffers nowadays already from shortage of water, may be seriously damaged and the **natural** international waterway—glory of Europe ever since Caesar's time—will suffer this damage for the benefit of **artificial** waterways running often in unnatural directions, dug not for the benefit of the world, but to satisfy special national wishes. Henry Clay, as Secretary of State, advocating the freedom of the St. Lawrence River, declared it the duty of man toward the Creator "to deliver His great works from the artificial shackles and selfish contrivances to which they have been arbitrarily and unjustly subjected." Article 23, paragraph (e), of the League of Nations covenant pleading for "freedom of communication and of transit" acknowledges this truth. The Rhine provision of the Peace Treaty, on the contrary, points to **new** artificial shackles and to **new** selfish contrivances.

### America's Interests

If it were possible to cut out Central Europe from the body of the European continent and to sink it to the bottom of the ocean, the Rhine problem would have lost its actual importance. But since it is impossible to cut out Germany and German Austria and their neighboring States, since these countries will for many years after the war require the importation of enormous quantities of agricultural, commercial and industrial supplies, and since they will before long produce again certain industrial and mineral goods which the world is already asking for, the penetration into the heart of Central Europe is as important as it was in 1914 and even more important.

For Italy, this penetration by way of the Rhine has no interest at all, neither for import nor for export. For Switzerland, this interest may become real; for Alsace-Lorraine it is a vital one. For Belgium the interest of a prospering Rhine navigation is a real one, but as one-sided as it is for Rotterdam; because Central Europe, importing foodstuff and raw material in very large quantities and exporting finished and less bulky products of her industry, imports (generally speaking) by water, i. e. by Rotterdam, and exports by rail, i. e. by Antwerp. Therefore, everything which hampers the **importation** by the Rhine toward Central Europe without replacing it by as good and as cheap a waterway hampers at the same time the corresponding **exportation** through Belgium.

And what about America?

Beyond any doubt her industries will be called upon—as they have been called upon already—to supply quantities of articles which before the war the factories of Central Europe made themselves; she will be called upon, also, to penetrate into the heart of Europe with her agricultural and mineral products; she will ask many goods in exchange; she is building a grand fleet of merchantment to bring her own commerce and industry into direct communication with her customers by the shortest and cheapest way. America's interests in a prosperous Rhine will therefore be much greater than those of Italy or Belgium. If the seats on the new board were distributed not on political lines but on lines of interest, American membership would be far more reasonable than Italian. And why did America choose Rotterdam for her port of entrance to supply her European armies after the armistice, if not because the Rhine offers natural and profitable advantages which neither railways, nor canals with their locks and duties, can offer with as little expense of money and time?

### **Not a Plea for Rotterdam**

Of course, The Netherlands Government and The Netherlands people feel profoundly interested in the Paris solution of the Rhine problem, because of its influence on the port of Rotterdam and on the commerce of the whole country. Before the war the Rhine transits through The Netherlands amounted to about 37,000,000 tons a year. But The Netherlands have learned too well the lesson, taught by this and the former century, not to endeavor to promote a Netherlands policy which would be unprofitable for the world at large. The Netherlands Government has already notified other governments of their full adherence to the principle laid down in the League of Nations covenant (freedom of international waterways, etc.) and their full support of the same. The Netherlands contention on the Rhine problem objects to the proposed Rhine policy because it sacrifices the natural development of a splendid international waterway and the advantages of the satisfactory Rhine Treaty of 1868, to national motives of a lower order, which are not in harmony at all with the principles stated in the League of Nations covenant itself.

The interest of The Netherlands in a wiser and more equitable solution of the Rhine problem does not induce her to oppose the interests of any other nation, but only to act as a spokesman for those interests that are common to all nations which will have to import to Central Europe or to export from there.

### **The Tearing Up of Treaty Obligations**

One word must be added with regard to the very irregular manner in which it appears that the Paris Conference proposes its modification of present treaty provisions.



The 16th Appendix of the Final Act of the Congress of Vienna (1815), containing 32 articles respecting the Rhine, has been enacted by a general assembly of European nations; but the Rhine Navigation Treaty of 1868, carrying out the last article of that appendix, was signed and ratified by the riparian states of the Rhine only. It is one of those rare treaties which may not be denounced by one of the contracting parties and therefore can only be modified or abolished, if all the parties agree. But for this characteristic of the treaty, The Netherlands would never have been able to avert the German desire of 1911 to impose tolls on the Rhine traffic.

And now, this undenounceable treaty between a special group of States is or seems to be on the point of being modified, **not** by a new agreement between these nations on the reasonable advice of the Paris Conference—**not** by a new agreement between those nations subject to the approval of the League of Nations (an approval securing the general interests of the world), but by the one-sided action of a few associated nations, none of which are parties to the Rhine treaty itself. No text book on international law is known which contends that the tearing up of treaty provisions in **such** a way is lawful.

### America's Policy

John Bassett Moore, in his *Principles of American Diplomacy* (1918) emphasized and proved with many instances that "with regard to rivers which are navigable within two or more countries, the principle of free navigation, consecrated in the acts of the Congress of Vienna, has been consistently advocated by the United States." The Leyden professor of international law, who is at the same time The Netherlands member of the Central Rhine Navigation Commission, Jonkheer Van Eysinga, said the same thing in a recent magazine on "The United States and International Law." But free navigation on the Rhine will become a deceptive term, if the provisions of a Rhine Navigation Treaty can be torn up by the arbitrary power of outside nations, if the supervision of Rhine affairs is to be entrusted to a political body with clashing national interests, and if some of the members of this political body are to be in favor not of improving the Rhine, but of wrecking the Rhine. If the United States supports a similar measure she abandons a policy that is part of her glory.

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Washington, D. C., May 10, 1919.\*



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